

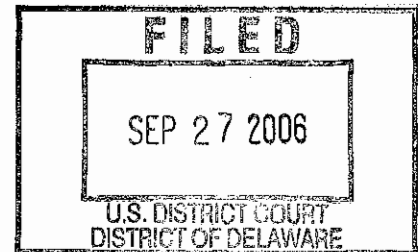
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

William J. HAMMONS
petitioner,

Civ. Act. No. 1:05-cv-00718 (KAT)

V.

THOMAS CARROLL, et. al
Respondant.



Motion TO Compel Scanned- BD 9/27/06

Comes now, William J. HAMMONS, pre-se
petitioner, pursuant to Rule #5, 28 USC 2254
and moves this Court to order the Respondants
to respond to the allegations in the above
captioned petition for writ of Habeas Corpus.

In support thereof petitioner offers the following:

- 1) Rule #5 of 28 USC 2254 provides
in relevant part, that the state "shall respond
to the allegations in the petition".

2) IN THE STATES RESPONSE TO PETITIONERS HABEAS CORPUS THE STATE NEVER ADDRESSED NOR RESPONDED TO THE STATEMENTS COUNSEL ALLEGEDLY MADE TO PETITIONER IN HIS FIRST CLAIM OF INEFFECTIVE ASSISTANCE OF COUNSEL (I.E. COERCION)

3) IN CLAIM THREE PETITIONER ALLEGED THAT HE WAS A). LEGALLY AND FACTUALLY INNOCENT, AND B). THAT THERE WAS INSUFFICIENT EVIDENCE TO SUSTAIN A CONVICTION.

RESPONDENTS NEVER ADDRESSED THE MERITS OF THE FACTUAL INNOCENT CLAIM AND TOTALLY IGNORED THE INSUFFICIENCY OF EVIDENCE CLAIM.

4). INSUFFICIENT EVIDENCE TO SUSTAIN A CONVICTION IS COGNIZABLE IN FEDERAL HABEAS CORPUS AS A DUE PROCESS CLAIM AS OUTLINED IN THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION. JACKSON V. VIRGINIA, 99 Sct. 2781; ISHAM V. COLLINS, 905 F2d 67 (5th Cir. 1990); PEMBERTON V. COLLINS, 991 F2d 1218 (5th Cir 1993).

5). Petitioner would have brought this to the Courts attention earlier but he just found out and or realized the states mistake this week through on going research.

FOR THE REASONS ADVANCED HEREIN, THIS PETITIONER RESPECTFULLY REQUESTS THAT THIS HONORABLE COURT COMPEL THE STATE TO COMPLY WITH RULE #5 OF 28 USC 2254 AND RESPOND TO THE ALLEGATIONS IN HIS PETITION AS OUTLINED IN THIS MOTION, AND IN THE EVENT THAT THEY REFUSE, PETITIONER RESPECTFULLY REQUESTS A DEFAULT JUDGEMENT TO BE ENTERED OR AN EVIDENTIARY HEARING HELD.

Respectfully Submitted,

William J. Hammons
William J. Hammons
#166139

DEL. Corr. Ctr.

1181 Paddock Rd.

Smymna, DE. 19977

XC: E. McFARLAN
Dep. Atto. General

FILE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT ON
September 22nd, 2006 I Filed A motion To
Compel With THE UNITED STATES District
Court For THE DISTRICT OF DELAWARE and
Sent ONE Copy TO THE Respondents By
placing THE Same in THE INSTITUTIONAL MAIL
AT THE DELAWARE CORRECTIONAL CENTER.

THE ORIGINAL WAS SENT TO DISTRICT COURT
AND ONE COPY WAS SENT TO THE FOLLOWING:

TO: ELIZABETH R. McFARLAN
Deputy Attorney General
DEPT. OF JUSTICE
820 N. FRENCH ST.
WILM., DE. 19801

DATE: 9-22-06

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